

Virginia Tax Bulletin

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Retail Sales and Use Tax: Exemption for Nonprescription Drugs and Proprietary Medicines

Effective July 1, 1998, nonprescription drugs and proprietary medicines will be exempt from the retail sales and use tax. "Nonprescription drugs" include any substances or mixture of substances containing medicines or drugs for which no prescription is required and which are generally sold for internal or topical use in the cure, mitigation, treatment, or prevention of disease in human beings. This exemption is also applicable to "proprietary medicines" which is any nonprescription drug sold to the general public under the brand name or trade name of the manufacturer and which does not contain any controlled substance or marijuana.

The exemption for nonprescription drugs and proprietary medicines does **not** apply to:

- (1) cosmetics - articles applied to the body for cleansing, beautifying, promoting attractiveness or altering the appearance (includes makeup, body lotions, cold creams, and hair restoration products);
- (2) toilet articles - articles advertised or held out for sale for grooming purposes (includes soaps, toothpastes, hair sprays, shaving products, colognes, deodorants, and mouthwashes);
- (3) food products and supplements - including those classified as such by the Federal Food and Drug Administration (includes herbal teas, drinks, pills, or supplements, diet aids, and weight control preparations);
- (4) vitamins and mineral concentrates sold as dietary supplements or adjuncts (except when sold pursuant to a written prescription by a licensed physician, nurse practitioner, or physician's assistant); and
- (5) devices - includes contraceptive items, birth control preparations, and testing kits. Diabetic testing kits will continue to be exempt under a separate exemption for specific medical equipment.

This exemption is applicable regardless of the nature of the purchaser. Thus, nonprescription drugs and proprietary medicines may be purchased tax exempt by individuals, physicians, medical facilities, and all other entities. Retail dealers making sales of nonprescription drugs and proprietary medicines must keep records segregating purchases and sales of exempt items.

In addition, effective July 1, 1998, samples of nonprescription drugs and proprietary medicines distributed free of charge by the manufacturer are exempt from the sales and use tax. Currently, pharmaceutical manufacturers are subject to the use tax, based on the cost price, of samples distributed in Virginia by their salespersons.

Tax Status of Various Types of Nonprescription Drugs and Proprietary Medicines

Examples of **taxable** and **exempt** nonprescription drugs and proprietary medicines are listed below. This list is intended as a guide and is not intended to be all inclusive.

Exempt items

Acne products	Eczema preparations
Alcohol, rubbing	Epsom salts
Alcohol swabs	Expectorants
Allergy relief products	Eye drops, lotions, ointments and washes for healing, treatment or therapeutic use
Analgesics	Fever blister aids
Anesthetics	First aid healing agents, cleaners
Antacids	Fluoride rinses and antiseptic dental washes
Antibiotic ointments	Foot care products for treatment of infections (callous removers, medicated corn plasters, ingrown toenail preparations, athlete's foot treatments)
Antifungals	Fungicides (for use on humans)
Antihistamines	Glucose tablets
Antimalarials	Glycerine products intended for medical use
Antinauseants	Hay fever aid products
Antiseptics	Headache relief aid products
Aspirin	Hemorrhoidal treatments
Asthma preparations	Hydrogen peroxide
Baby powder (medicated)	Ibuprofen
Bee sting relievers	Insect bite and sting preparations
Benzoin	Iodine, tincture of
Boric acid ointment	Itch, rash relievers
Burn remedies	Laxatives
Calamine lotion	Lice products used to kill lice that infect humans
Camphor	Liniments
Castor oil	Lip balms, ices and salves (medicated)
Cathartics	Lotions (medicated)
Cod liver oil	Menstrual cramp relievers
Cold capsules and remedies	Mercurochrome
Cold/canker sore preparations	Milk of Magnesia
Contact lens lubricating and wetting solutions	Mineral oil
Cough and cold items, cough drops, cough syrups	Motion sickness remedies
Dandruff and seborrhea preparations	Mouthwashes (antiseptic)
Decongestants	Muscle ache relievers
Diarrhea aids and remedies	Nasal drops and sprays
Digestive aids	
Disinfectant (for use in humans)	
Diuretics	
Earache/earwax removal preparations	

Nicotine supplements (that treat nicotine withdrawal symptoms)

Oil of wintergreen

Pain relievers (oral or topical)

Parasiticides (for humans)

Peroxide (medicinal)

Poison ivy and oak preparations

Powder (medicated)

Rectal preparations

Shampoos (medicated)

Exempt items - cont.

Shaving products (medicated)
Sinus relievers
Sitz bath solutions
Skin irritation relievers (medicated)
Sleep aids (inducers)
Soap - germicidal, surgical, therapeutic (used for medical treatment)
Styptic pencils
Sunburn lotions
Sunscreen (containing SPF protection)
Suppositories, except contraceptives

Teething preparations
Throat lozenges (medicated)
Tooth desensitizers
Toothache relievers
Upset stomach relievers
Vaginal infection remedies
Wart removers
Witch hazel
Worming treatments (humans)
Zinc oxide ointments

Taxable items

Adhesive bandages, dressings and cotton
Adhesive removers
Adhesive tape
Appetite suppressants
Bath crystals, milks, oils, and powder
Birth control preparations
Breath fresheners and sweeteners
Bubble bath
Bunions, corn pads (nonmedicated)
Cleaning creams and lotions
Contact lens cleaning solutions and disinfectants
Cosmetics
Cotton applicators, rolls, balls and swabs
Cuticle softener, removers
Denture adhesives, cleaners, preparations
Deodorants, antiperspirants
Depilatories
Dental floss
Diet aids
Dietary foods, supplements and substitutes
Distilled water
Exfoliants
Hair restoration products
Herbal teas, drinks, pills, or powder supplements
Household disinfectants and insecticides
Infant formula
Mouthwashes (other than antiseptic)
Pet medical supplies
Pet medicines
Petroleum jelly
Prophylactics
Pumice powder

Saline solution
Sanitary napkins, tampons and similar items
Shampoos (nonmedicated)
Shaving products (nonmedicated)
Skin bleaches
Soaps, generally
Stimulants
Suntan lotion (without SPF protection)
Talcum powder
Testing kits (except diabetic test kits)
Thermometers
Toothpastes, polishes, powders, whiteners
Vitamins and mineral supplements
Wax
Weight control preparations
Wrinkle removing and concealing preparations

Background

The 1990 General Assembly passed Senate Bill 317 (Chapter 117, 1990 Acts of Assembly) to provide an exemption from the sales and use tax for nonprescription drugs and proprietary medicines purchased for the cure, mitigation, treatment, or prevention of disease in human beings. The exemption was originally to be effective July 1, 1992. However, the effective date has been deferred every two years since 1992, with the last action passed in 1996, when the exemption's effective date was deferred to July 1, 1998. Subsequently, no action has been taken by the General Assembly to defer the effective date again; therefore, the exemption is effective July 1, 1998.

The 1997 General Assembly passed House Bill 1665 (Chapter 696, 1997 Acts of Assembly) which expanded this exemption to samples of nonprescription drugs and proprietary medicines distributed free of charge by the manufacturer, including packaging materials and constituent elements and ingredients. The effective date of this exemption coincides with the effective date of the exemption for nonprescription drugs and proprietary medicines.

For additional information: If there are any questions about whether or not a particular item qualifies for exemption, please contact the Office of Customer Services, Virginia Department of Taxation, (804) 367-8037.